

REMARKS

The Non-Final Office Action dated January 12, 2010 has been received and reviewed. Prior to the present communication, claims 1, 7-11, 13, 14, 17, 18, and 21-24 were pending in the subject application. Each of claims 1 and 11 has been amended herein and claims 17, 18, and 21-24 have been canceled. Accordingly, claims 1, 7-11, 13, and 14 remain pending. Care has been exercised to introduce no new subject matter. Applicants respectfully request reconsideration of the present Application in view of the above amendments and the following remarks.

Allowable Subject Matter

Applicants would like to thank the Examiner for pointing out allowable subject matter in claims 1 and 7-10. Claim 1 has been amended to include the Examiner's suggested recitations to put the claims in condition for allowance. Additionally, independent claim 11 has also been amended to include the Examiner's suggested recitations concerning independent claim 1, as well as to direct the claim to "diagnosing ulcerative colitis" rather than "differentiating between ulcerative colitis and Crohn's disease" to overcome the 35 U.S.C. 112 rejection as discussed in the examiner interview on February 12, 2010. Accordingly, independent claims 1 and 11 are believed to be in condition for allowance. Claims 7-10, 13, and 14 are believed to be in condition for allowance at least because of their dependency. *See, In re Fine, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988); see also, MPEP § 2143.01.*

Objections

Claim 1 has been objected to and the Examiner has suggested that the claim be amended to recite "wherein an elevated level of anti-neutrophil cytoplasmic antibodies is

indicative of ulcerative colitis.” It has been further suggested that claim 1 be amended to recite “compared to the level of a healthy control.” Independent claim 1 has been amended in accordance with the Examiner’s suggestions. Accordingly, Applicants respectfully request withdrawal of the objections.

Rejections based on 35 U.S.C. § 112

Claims 11, 13, 14, 17, 18, and 21-24 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims were said to contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Each of claims 17, 18, and 21-24 have been canceled by way of the present communication and, thus, the rejection of these claims has been rendered moot.

It is believed that the purported deficiencies noted in the Office Action regarding claims 11, 13, and 14 have been addressed via the amendments made herein. Specifically, independent claim 11 has been amended to recite “a diagnostic assay for diagnosing ulcerative colitis,” omitting the previously rejected recitation of “differentiating between ulcerative colitis and Crohn’s disease.” Thus, claim 11 is no longer directed to differentiating between ulcerative colitis. Rather, claim 11 is directed to diagnosing ulcerative colitis, which is supported in the specification, at least, at ¶ 10 and Tables 2-4.

Applicants respectfully submit that the amendments overcome the 35 U.S.C. 112, first paragraph, rejection to claims 11, 13, and 14. As such, Applicants respectfully request withdrawal of the rejection of claims 11, 13, and 14 under 35 U.S.C. 112, first paragraph.

CONCLUSION

For at least the reasons stated above, claims 1, 7-11, 13, and 14 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or asturgeon@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number TLAB.100294.

Respectfully submitted,

/Ashley N. Sturgeon/

Ashley N. Sturgeon
Reg. No. 64,819

ANL/tq
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550